

03 NOV 21 AM 11:15

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 N. 5TH STREET
KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

In the Matter of)
)
ROEMERMAN FEED & GRAIN, INC.,) Docket No. FIFRA-07-2003-0243
)
Respondent) CONSENT AGREEMENT AND
) FINAL ORDER

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about July 11, 2003, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. § 1361, when the United States Environmental Protection Agency (hereinafter referred to as "Complainant" or "EPA") issued a "Complaint and Notice of Opportunity for Hearing" to Roemerman Feed and Grain, Inc. (hereinafter referred to as "Respondent").

The Complaint charged Respondent with violating § 12(a)(2)(F) of FIFRA, 7 U.S.C. § 136j(a)(2)(F).

Subsequently, Complainant and Respondent entered into negotiations in an attempt to resolve this Complaint. The Consent Agreement and Final Order set forth herein below is the result of these negotiations and represents settlement of this Complaint.

CONSENT AGREEMENT

It is hereby agreed, and accepted by Respondent that:

1. This Consent Agreement and Final order is being entered into by the parties in full settlement of, and releases Respondent from all FIFRA civil penalties that might have attached as a result of the allegations in the Complaint. Respondent has read the Consent Agreement, finds it reasonable and consents to the issuance and its terms and explicitly waives its right to a hearing on the Complaint, this Agreement, and the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaint and admits the facts stipulated in this Consent Agreement.

3. Respondent neither admits nor denies the violations of FIFRA as set forth in the Complaint.

4. Respondent certifies by signing this Consent Agreement and Final Order that to its knowledge it is presently in compliance with FIFRA, 7 U.S.C. § 136 et. seq., and all regulations promulgated thereunder.

5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

6. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

7. Each party shall bear its own costs and attorney's fees in the action resolved by this Consent Agreement and Final Order.

8. Each signatory of this Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order.

9. Respondent has established a computer system within its organization that alerts employees when a restricted use pesticide is about to be sold. This system will not allow the input of a restricted use pesticide sale until a valid applicator permit number is entered.

10. Respondent will post notices in its establishment(s) notifying customers/purchasers that a copy of their current license must be presented prior to any purchase or delivery of restricted use pesticides.

11. Respondent will contribute one thousand dollars (\$1,000.00) to the Agribusiness Association of Iowa (AAI) toward the costs of educating retail agriculture dealers in the state of Iowa about the legal sale and distribution of restricted use pesticides.

12. Respondent will submit written documentation to the EPA that the activities in number 10 and 11 of this Consent Agreement have been completed by May 30, 2004. Said documentation should include an affidavit and a copy of the educational materials disseminated.

13. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in paragraph 2 of this Final Order.

FINAL ORDER


Pursuant to § 14 of FIFRA, as amended, 7 U.S.C. § 136l, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent, in settlement of the allegations set forth in this Complaint, shall pay by cashier's or certified check, a civil penalty, for the violations cited herein, Four Thousand Five Hundred Dollars (\$4,500.00), payable to the "Treasurer, United States of America" and such check shall be mailed to: U.S. EPA-Region VII (Regional Hearing Clerk), c/o Mellon Bank, P.O. Box 360748M, Pittsburgh, Pennsylvania 15251. The payment shall be identified as In the Matter of Roemerman Feed and Grain, Inc. A copy of the check shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101.

2. The civil penalty shall be paid on or before 30 days after the effective date of the Final Order (the date by which the payment must be received shall hereinafter be referred to as the "due date"). The effective date of this Order shall be the date on which it is signed by the Regional Judicial officer.

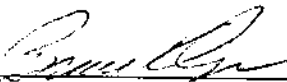
3. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

By: 
Rupert G. Thomas
Attorney
Office of Regional Counsel

Date: 11/20/03

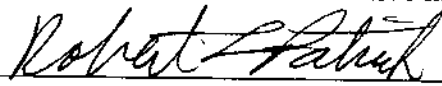
RESPONDENT:
ROEMERMAN FEED AND GRAIN, INC.

By: 

Title: Manager

Date: 11/19/03

IT IS SO ORDERED. This Order becomes effective immediately.


Robert L. Patrick
Regional Judicial
Region VII

Date: November 21, 2003

IN THE MATTER OF Roemer Feed & Grain, Inc., Respondent
Docket No. FIFRA-07-2003-0243

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Rupert G. Thomas
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Bruce Klyn, Manager
Roemer Feed & Grain, Inc.
P.O. Box 158
Blakesburg, Iowa 52536


Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

and

The Honorable William B. Moran
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 4/21/03


Kathy Robinson
Regional Hearing Clerk